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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 140113040-4040-01]

RIN 0648-BD90

Fisheries of the Exclusive Economic Zone off Alaska; Monitoring and Enforcement;

At-sea Scales Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to revise the at-sea scales program for catcher/processor vessels (C/Ps) and motherships that are required to weigh catch at sea.

This action would make three major changes to current regulations. First, this action would change regulations to enhance daily scale testing and require electronic reporting of daily scale test results. Second, this action would require that scales used to weigh catch have electronics capable of logging and printing the frequency and magnitude of scale calibrations, as well as the time and date of each scale fault and scale startup.

Third, this action would require that the scale and the area around the scale be monitored using video. Finally, this action would revise technical regulations that are no longer applicable. This action is being proposed to reduce the possibility of scale tampering and to improve the accuracy of catch estimation by the C/P and mothership sector. This

action is intended to promote the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area, the Fishery Management Plan for Groundfish of the Gulf of Alaska, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws.

DATES: Written comments must be received on or before [insert date 30 days after date of publication in the FEDERAL REGISTER]

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2014-0006, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0006, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required

fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of the Categorical Exclusion and the Regulatory Impact Review (Analysis) prepared for this action may be obtained from <http://www.regulations.gov> or from the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>. An electronic copy of the Guidelines for Economic Review of National Marine Fisheries Service Regulatory Actions may be obtained from http://www.nmfs.noaa.gov/sfa/domes_fish/EconomicGuidelines.pdf.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS (see ADDRESSES) and by e-mail to OIRA_Submission@omb.eop.gov, or by fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: Jennifer Watson, 907-586-7228

SUPPLEMENTARY INFORMATION:

NMFS manages the U.S. groundfish fisheries of the exclusive economic zone off Alaska under the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area. The fishery management plans (FMPs) were prepared by the North Pacific Fishery Management Council (Council) and approved by the Secretary of Commerce under authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson-Stevens Act). The FMPs are implemented by regulations at 50 CFR parts 679 and 680.

Background

The at-sea scales program (Program) was developed in the mid-1990's to provide catch accounting methods for vessels, specifically C/Ps, that were more precise and verifiable and less dependent on estimates generated by at-sea observers. Improved catch estimation was necessary because of the implementation of large-scale catch share programs. NMFS determined that effective monitoring and enforcement of catch share programs require verifiable and precise estimates of quota harvest. Because catch share programs limit vessel operators to specific amounts of catch, vessel operators have an increased incentive to underreport catch to fish beyond specific catch limits. A method for independently verifying catch, such as a requirement to weigh catch on a scale, reduces the ability of vessel operators to underreport catch.

Because C/Ps do not deliver their catch onshore where land-based scales can be used, catch must be weighed at sea. The requirements for weighing catch at sea were first implemented in 1998 (63 FR 5836, February 4, 1998) for trawl C/Ps participating in the Multi-Species Community Development Quota (MS CDQ) program. The Program was expanded significantly in 2000 as a result of statutory requirements of the American Fisheries Act (AFA) that required all at-sea catch by specified vessels in the Bering Sea and Aleutian Islands (BSAI) pollock fishery to be weighed (see 65 FR 4520, January 28, 2000). In 2006 and 2007, the Program was further expanded to include trawl C/Ps participating in the Central Gulf of Alaska rockfish pilot program (71 FR 67210, November 20, 2006) and non-AFA trawl C/Ps participating in BSAI trawl fisheries (72 FR 52668, September 14, 2007). Finally, the Program was expanded in 2013 to include longline C/Ps that participate in BSAI Pacific cod fisheries (77 FR 59053, September 26,

2012). Since its inception, the Program has grown significantly, from fewer than 10 participating vessels in 1998 to over 60 vessels today.

The Program is dependent on two types of motion-compensated electronic scales. The first is a platform scale with a capacity between 50 and 60 kg that is used by NMFS-certified observers (observers) to perform part of their sampling duties and to verify the accuracy of the second type of motion-compensated scale—a flow scale. A flow scale, or self-contained belt scale, is capable of continuously weighing up to 100 metric tons (mt) of fish per hour and is used by the vessel to weigh either total catch or quota species (species allocated under a catch share program).

When the Program was developed in 1998, NMFS understood that rigorous scale approval and monitoring provisions would be necessary to ensure the accuracy of scales. The Program NMFS developed included three levels of regulatory oversight. First, each model of scale approved by NMFS for use at sea must have been tested by an independent laboratory and found to meet specified standards of accuracy and reliability. Second, NMFS-authorized inspectors must inspect each scale annually to ensure that it remains accurate, has been adequately maintained, and is properly installed. Third, each scale must be tested daily by vessel crew when in use and must be accurate within +/- 3 percent when compared against a platform scale used by observers. In turn, the vessel crew compares the flow scale against test weights of a known weight to ensure its accuracy. The first two components of the scale-monitoring provisions are similar to standards in place for the approval of land scales used in trade applications throughout the United States. The third component, daily testing of at-sea scales, is necessary because the demanding environment where these scales are used can cause scales to

become inaccurate due to vessel motion, temperature and humidity changes, onboard power fluctuations, or other factors. The background section of the Analysis provides additional detail on the scale approval and monitoring process.

NMFS researched the best available technology before developing at-sea scale regulatory standards. However, since the Program was implemented (1998), there have been significant technological improvements. First, vessels are now able to communicate quickly and easily with NMFS while at sea using an electronic logbook (ELB) to report catch and effort information. When the Program was implemented in 1998, ELB was in early development stages and its use was not required. Now, the majority of vessels that are required to weigh catch at sea are also required to report catch daily using an ELB. Second, scale technology and onboard computer technology have advanced significantly; when the Program was implemented in 1998, the internal data storage capacity of the scales was very limited. Given the available data storage capacity in 1998, NMFS determined that the most important information to retain in the scale memory was the weight of the prior 10 hauls and an audit trail that described modifications made to the operation of the scale that could affect its accuracy (i.e., repair or maintenance of mechanical equipment needed for weighing catch). However, the current generation of scales is significantly easier to program and offers significantly more onboard data storage capacity allowing the retention of more information. The first generation scale electronics are reaching the end of their functional lives and are being replaced by the new generation of scales with considerably more sophisticated electronics. As noted in Section B of the Analysis, only 19 out of 68 vessels with NMFS-approved flow scales continue to use first-generation scales, and NMFS

anticipates that most of these first-generation electronics will be replaced by the time this proposed action would be implemented, if approved. Finally, at the time the Program was first implemented in 1998, the vessels that were required to use scales did not have onboard video systems; nor were these vessels subject to video monitoring. Since that time, NMFS has developed monitoring regulations that require the majority of the vessels using at-sea scales to provide video monitoring to monitor the flow of catch.

The Proposed Action

This proposed action would affect the owners and operators of the following C/Ps and motherships that are required to weigh catch at sea:

- trawl C/Ps permitted for pollock in the BSAI under the AFA;
- motherships permitted to receive deliveries of pollock in the BSAI under the AFA;
- trawl C/Ps permitted to fish for groundfish under Amendment 80 to the BSAI FMP;
- trawl C/Ps permitted to fish for rockfish in the Central Gulf of Alaska (GOA);
- longline C/Ps with a license limitation program license endorsed for C/P operations that fish for Pacific cod using hook-and-line gear in the Bering Sea (BS) or Aleutian Islands (AI) areas: and
- C/Ps that harvest catch in the BSAI under the CDQ program.

All C/Ps and motherships that harvest catch in the BSAI under the MS-CDQ program would be subject to the same requirements as all other vessels that are required to weigh groundfish catch at sea under this proposed action. Therefore, this proposed

action would be consistent with section 305(i)(1)(B)(iv) of the Magnuson-Stevens Act, that requires that CDQ fisheries “shall be regulated by the Secretary [NMFS] in a manner no more restrictive than for other participants in the applicable sector.”

This proposed action would: (1) change daily scale testing requirements; (2) change flow scale software requirements; (3) require video monitoring; and (4) make other minor changes that would be needed to effectively implement the proposed action. Each of these proposed changes is described in more detail below.

Changes to Daily Scale Testing Requirements

Currently, operators of vessels required to use at-sea scales must test each scale once during every 24 hours when use of the scale is required under regulations at § 679.28(b)(3). This is commonly known as the daily scale test. In order to test the scale, the vessel crew weighs at least 400 kg of fish or sand bags on the flow scale and on the platform scale used by NMFS-certified observers. The results from the daily scale tests on the two scales must agree within +/- 3 percent of each other, commonly known as the 3 percent standard. At least one daily scale test that meets the 3 percent standard must be recorded in writing and signed by the vessel operator. If the flow scale does not meet the 3 percent standard, the flow scale is cleaned, serviced, and then retested. Under current regulations at § 679.28(b)(iii)(C), vessel owners and operators are required to retain the results of each daily scale test on board for the duration of the fishing year, but they are not required to submit those test results to NMFS. In most cases, the results of these daily scale tests are reviewed by NMFS only at the time of the annual scale inspection after the fishing season is over.

NMFS established the 3 percent standard based on preliminary testing results

when the Program was first implemented (see 63 FR 5836, February 4, 1998) and reviewed that standard based on an analysis of daily scale testing results from 2010 (see Section A.5 of the Analysis). NMFS has determined that the 3 percent standard represents an appropriate compromise between the need for accurate weights and to minimize the number of times vessels would need to return to port for maintenance to correct minor discrepancies in daily scale test results. However, based on Section A.5 of the Analysis, the mean scale test error is negative. This indicates that there is a bias in the weights obtained from the daily scale tests that result in weights being under reported. Section A.5 of the Analysis provides a detailed description of the numerous factors that can bias daily scale tests and result in an underestimation of the weight of catch.

To address this potential bias, NMFS proposes four changes to the daily scale test requirements at § 679.28(b)(3). First, NMFS would modify regulations at § 679.28(b)(3)(i)(B) to require that the vessel operator test the scales with material supplied by the scale manufacturer or approved by a NMFS-authorized scale inspector. This proposed change would ensure that appropriate material, such as sand bags or material supplied by the scale manufacturer, is used instead of fish. Sand bags are a more consistent weight than fish because they do not dry between being weighed on the flow scale and being weighed on the platform scale. This change would ensure consistent weights of the test material, better accuracy, and reduce the potential for bias to be introduced by changes in the test weight due to water loss from the fish between flow scale and platform scale tests.

Second, NMFS would add regulations at § 679.5(f)(1)(ix) to require that the

vessel operator electronically report the results and timing of daily scale tests each day to NMFS in the vessel's ELB. This addition would allow NMFS employees to continuously monitor daily scale tests by vessels when they are at sea and to work with vessel crew to ensure that any bias in daily scale tests could be discovered and corrected quickly.

Third, NMFS would add regulations at § 679.5(f)(1)(ix) to require the reporting of all daily scale tests, whether passed or failed, to NMFS. Currently, vessel operators are allowed to test their scales as frequently as they want, but are only required to record the results from a single daily scale test that meets the 3 percent standard during each 24-hour period when use of the scale is required. In most cases, failed daily scale tests are not reported, and NMFS does not know how many daily scale tests were completed before the scales met the 3 percent standard. Some vessels also test their scales multiple times even when the scales are meeting the 3 percent standard in order to report only the best (i.e., lowest error) result. Over time, such practices would create a consistent bias that would result in underreporting of catch.

Finally, NMFS would modify regulations at § 679.28(b)(3) to clarify that a daily scale test must be conducted one time during each calendar day when use of the scale is required, with testing intervals not to exceed 24 hours. Current regulations at § 679.28(b)(3) state that scales must be tested "one time during each 24-hour period when use of the scale is required." The intent of the original regulation was to ensure that scales were tested at no greater than 24-hour intervals. However, the current regulation could be interpreted in a manner that does not provide a daily scale test for each calendar day, which could result in a gap of more than 24-hours between tests. For example, if a

daily scale test is performed at 9:00 p.m. on day 1, and at 8:59 p.m. on day 3, a total of almost 48 hours has elapsed. However, if a “24-hour period” is interpreted as lasting from 9:00 p.m. on day 1 to 8:59 p.m. on day 2, and another “24-hour period” is interpreted as lasting from 9:00 p.m. on day 2 to 8:59 p.m. on day 3, the scale will have been tested once during each of these “24-hour periods,” yet not at all during calendar day 2. The proposed provision to require the vessel operator to conduct a daily scale test one time during each calendar day when use of the scale is required, with testing intervals not to exceed 24 hours, would clarify the daily scale test requirements and regular scale testing.

Changes to Flow-Scale Software Requirements

This proposed rule would improve the ability of NMFS to detect two of the greatest potential sources of bias in the weight reported by the flow scale, which are flow scales that do not weigh correctly due to being in a fault mode, and the incorrect calibration of flow scales.

A fault is any condition detected by the scale electronics that has the potential to affect the metrological accuracy of the scale. Many factors will put the scale into a fault mode. Some fault modes have more significant effects than others. For example, a slipping belt will generally cause a fault and, if left uncorrected, could result in a dramatic overestimation of the amount of fish passing over the scale. Other fault modes, such as when the scale is weighing catch at a low rate of flow, are of only technical significance, and NMFS has seen no evidence that this condition affects scale accuracy. When flow scales are well maintained, they can be quite accurate. With proper maintenance, scale faulting should be a fairly rare occurrence. However, lack of

maintenance and deliberate tampering can cause a substantial increase in the frequency of scale faults. NMFS is not able to quantify the frequency or cause of scale faults under current regulations. Limited information obtained from a review of video from vessels with video monitoring in the vicinity of the scale indicates that scale faulting may be widespread (see Section B of the Analysis for additional detail). Requiring vessel operators to log all faults as they occur would allow NMFS to better monitor the condition of scales. This would help prevent deliberate tampering with the scale that would result in faults and inaccurate weighing of catch.

Unlike land-based scales, at-sea scales generally require frequent calibration to ensure that the scale is correctly adjusted to a known reference weight. At-sea scale calibrations are required more frequently under some circumstances, such as a dramatic change in vessel motion due to sea conditions, or due to a change in vessel direction. Because it is not possible to predict when scale calibrations are needed at sea, it is impractical for NMFS to set a minimum or maximum number of calibrations that a vessel must conduct each day. In addition, at-sea scale calibrations can be deliberately performed improperly in order to cause the scale to weigh incorrectly. Section B of the Analysis details the factors that can lead to improper calibration. In those cases where improper calibrations result in the systematic underreporting of catch, NMFS expects the vessel crew would calibrate the scale properly prior to the daily scale test, and improperly after the test. Because of improvements made to scale electronics, it is now possible to record the magnitude and direction of calibrations relative to the previous calibration. It is also possible to record the time a calibration occurred. Section B of the Analysis describes the capabilities of the current generation of at-sea scales to retain and record

calibration data. Requiring the retention and reporting of calibration data could be used to detect deliberate miscalibration, thereby reducing the likelihood of underreporting of catch.

To resolve these fault and calibration issues, this proposed action would add two new requirements to the at-sea scale printed report requirements at §§ 679.28(b)(5)(iii) and (b)(5)(iv). The latest at-sea scales software can save and print out calibration and fault logs. NMFS would add regulations at § 679.28(b)(5)(iv) to require vessel operators to print and retain a fault log that records the last 1,000 faults and scale startups, or all faults and startups since the scale electronics were first put into service, whichever is less. NMFS would add regulations at § 679.28(b)(5)(iii) to require vessel operators to print and retain a calibration log that records the last 1,000 calibrations or all calibrations since the scale electronics were first put into service, whichever is less. NMFS expects the limit of 1,000 faults and 1,000 calibrations would accommodate the total number of calibrations likely to occur between annual scale inspections. NMFS would not require submission of the printed record of the scale fault log and calibration log, but would collect and review those data at the time of the annual scale inspection. Those data will also be available to the NOAA Office of Law Enforcement (OLE) in cases where scale tampering is suspected.

NMFS intends that the proposed modifications to fault and calibration reporting would be effective in early 2015. However, this proposed action would add regulations at § 679.28(b)(5)(v) to clarify that the proposed fault and calibration reporting requirements would be delayed for vessels that receive a scale inspection after March 1, 2014, and before December 31, 2014, until the time of that vessel's next scale inspection

in 2015. C/Ps and motherships receive a NMFS-conducted scale inspection on an annual basis. Because of the timing of some fisheries, NMFS tests some vessels' at-sea scales during the spring and summer. For example, NMFS does not conduct longline C/P vessel scale inspections until after March 1 of each year. Because NMFS anticipates that this rule will become effective at the beginning of 2015 (if approved), vessels that are inspected in the spring and summer of 2014 will be using scales that were approved prior to the effective date of the rule, and with an approval that would not expire until at least mid-year in 2015.

Without this proposed clarification, vessels that are normally inspected in the spring and summer would be required to have an additional scale inspection at the beginning of 2015. Scale inspections for these vessels are challenging because most of these vessels are docked in Alaska and without crew at the beginning of the year. Performing annual scale inspections for all affected C/Ps at the beginning of the year would present significant logistical difficulties and increased costs for both NMFS and the vessel owners and at-sea scale providers. NMFS believes that allowing these vessels to continue operations until they are required to conduct their annual scale inspections in 2015 would make the transition to these new regulations less administratively burdensome and would significantly reduce costs to vessels. NMFS does not expect that this provision would be needed for trawl C/Ps and motherships because those vessels typically conduct their scale inspections at the beginning of a year. However, this provision would not exclude any vessel that is required to carry at-sea scales and that received its annual scale inspection after March 1, 2014, and before December 31, 2014.

Addition of Video Monitoring

In 1998, when the at-sea scales regulations were first promulgated, no vessel fishing off Alaska was required to participate in a video monitoring program, and the use of video on fishing vessels was experimental. Now, 61 out of the 68 vessels that would be directly regulated by this action are required to provide some form of video monitoring in the vicinity of the at-sea scale, and broad use of video to monitor compliance for some aspect of catch monitoring on C/Ps is now routine. C/Ps and motherships participating in BSAI pollock fisheries are required to use video to monitor the sorting and retention of salmon under regulations found at § 679.28(j), which generally take place immediately after catch is weighed on the flow scale. Trawl C/Ps authorized to fish for groundfish under Amendment 80 to the BSAI FMP or rockfish in the Central Gulf of Alaska often use video to monitor the crew activities inside fish bins (see regulations at § 679.28(i)(1)(iii)). Longline C/Ps that would be affected by this action are currently required to use video to ensure that all Pacific cod are weighed on the flow scale (see regulations at § 679.28(k)).

Although the video data collected from these vessels are intended to meet other monitoring objectives, the data collected from existing video monitoring programs have been instrumental in demonstrating that flow scale manipulation is occurring, and that scale faulting is more frequent than NMFS believed. Without the broad documentation provided by existing video data, NMFS would have had a more difficult time determining how the at-sea scale program needed to be changed in order to prevent misreporting and ensure scale accuracy. The video required on trawl vessels, however, is required under monitoring regulations that are unrelated to monitoring flow scale use. While the video data from trawl vessels have provided information on scale faults and manipulation, the

requirements for camera placement under the other monitoring regulations often do not provide for direct and consistent monitoring of flow scale use. The proposed provisions for video monitoring of the area around the flow scale would assist NMFS management and enforcement in ensuring that all required catch weighing takes place properly.

This proposed action would require video monitoring of the flow scale and the area surrounding the flow scale. Specifically, NMFS would modify regulations at § 679.28(e) to require vessel owners to provide cameras, a digital video recorder, and a video monitor that are able to:

- Provide sufficient resolution and field of view to monitor the flow scale used by the vessel to weigh catch. The coverage would need: to be sufficient to clearly show the activities of any individual working on the scale; to clearly show all fish passing over the scale; and to show the scale display itself.
- Provide sufficient resolution to show if any fault light associated with the scale is on or flashing.
- Have sufficient data storage capacity to store all video data from an entire trip.
- Time/date stamp each frame of video in Alaska local time (A.l.t.).
- Include at least one external USB (1.1 or 2.0) port or other removable storage device approved by NMFS.
- Use color cameras that have at a minimum 470 TV lines of resolution, auto-iris capabilities, and output color video to the recording device with the ability to revert to black and white video output when light levels become too low for color recognition.
- Record at a speed of no less than 5 unique frames per second at all times.
- Provide a 16-bit or better color monitor that can display all cameras simultaneously.

The vessel operator would be required to maintain data from the system on board for at least 120 days and make the data available to NMFS employees, or any individual authorized by NMFS, upon request. The system would have to be inspected by NMFS annually in one of three designated ports (Dutch Harbor, Kodiak or the Puget Sound area) to ensure that it meets the above standards. If the system meets the above standards during the inspection, NMFS would provide approval in the form of a Video Monitoring Inspection Report that must be maintained aboard the vessel for the entire year. If the vessel owner wants to change any aspect of the video monitoring system that would affect the system's functionality, such as moving the location of a camera, the vessel owner would submit to the Regional Administrator a written request to change the video monitoring system.

Changes to Video Monitoring Technical Requirements

As described above, video monitoring is already required for most C/Ps and motherships fishing off Alaska. All of these vessels are subject to very similar, but in some cases not identical, technical requirements. In the past, minor inconsistencies among various fleets have not been problematic because the requirements apply to separate fleets. However, NMFS believes most of the vessels will use or expand an existing NMFS-approved monitoring system to comply with the requirement to monitor the scale area (see section C of the Analysis). NMFS intends that technical requirements for all vessels and systems would be identical to avoid confusion and to prevent inconsistencies that could make compliance with the new video monitoring requirements more difficult. Table 1 shows: (1) the current video regulations for each

of the affected fleets; and (2) the proposed regulatory revisions and consolidation that would create consistent technical video requirements applicable to all affected fleets.

Table 1. Current—and Proposed—Technical Video Regulations

Current Technical Video Regulations			Proposed Revisions and Consolidation of Technical Video Regulations (applicable to all C/Ps and motherships required to weigh catch at sea and all vessels currently subject to other video monitoring requirements)
Amendment 80 and Central Gulf of Alaska Rockfish, including CDQ	C/Ps and motherships directed fishing for pollock in the BS , including pollock CDQ	Longline C/Ps operating in BSAI or GOA when directed fishing for Pacific cod is open in the BSAI, including groundfish CDQ fishing	
<p>The video data must be maintained and made available to NMFS employees or any individual authorized by NMFS, upon request. These data must be retained on board the vessel for no less than 120 days after the beginning of a trip, unless NMFS has notified the vessel operator that the video data may be retained for less than this 120-day period</p> <p>(§</p>	<p>The video data must be maintained and made available to NMFS employees, or any individual authorized by NMFS, on request. The data must be retained on board the vessel for no less than 120 days <u>after the date the video is recorded</u>, unless NMFS has notified the vessel operator that the video data may be retained for less than this 120-day period</p> <p>(§ 679.28 (j)(1)(v))</p>	<p>The video data must be maintained and made available to NMFS employees, or any individual authorized by NMFS, on request. The data must be retained on board the vessel for no less than 120 days <u>after the date the video is recorded</u>, unless NMFS has notified the vessel operator that the video data may be retained for less than this 120-day period</p> <p>(§ 679.28(k)(3))</p>	<p>The video data must be maintained and made available to NMFS employees, or any individual authorized by NMFS, on request. The data must be retained on board the vessel for no less than 120 days <u>after the date the video is recorded</u>, unless NMFS has notified the vessel operator that the video data may be retained for less than this 120-day period</p> <p>(§ 679.28(e)(v))</p>

679.28(i)(1)(iii)(E))			
<p>Color cameras must have at a minimum 420 TV lines of resolution, a lux rate of 0.1, and auto-iris capabilities.</p> <p>(§ 679.28(i)(1)(iii)(D))</p>	<p>Color cameras must have at a minimum 470 TV lines of resolution, auto-iris capabilities, and output color video to the recording device with the ability to revert to black and white video output when light levels become too low for color recognition.</p> <p>(§ 679.28(j)(1)(iv))</p>	<p>Color cameras must have at a minimum 470 TV lines of resolution, auto-iris capabilities, and output color video to the recording device with the ability to revert to black and white video output when light levels become too low for color recognition.</p> <p>(§ 679.28(k)(1)(v))</p>	<p>Color cameras must have at a minimum 470 TV lines of resolution, auto-iris capabilities, and output color video to the recording device with the ability to revert to black and white video output when light levels become too low for color recognition.</p> <p>(§ 679.28(e)(iv))</p>
<p>The system uses commercially available software.</p> <p>(§ 679.28(i)(1)(iii)(C))</p>	<p>The system must use commercially available software.</p> <p>(§ 679.28(j)(1)(iii))</p>	<p>Use commercially available software</p> <p>(§ 679.28(k)(1)(iv))</p>	<p>The system must output video files to an open source format or the vessel owner must provide software capable of converting the output video file to an open source format or commercial software must be available for converting the output video file to an open source format.</p> <p>(§ 679.28(e)(1)(iii))</p>
<p><u>How does a vessel owner make a change to the video monitoring system?</u> Any change to the video monitoring system that</p>	<p><u>How does a vessel owner make a change to the video monitoring system?</u> Any change to the video monitoring system that</p>	<p>Any change to the electronic monitoring system that would affect the system's functionality or ability to meet the requirements at paragraph (k)(1) of this section must be</p>	<p><u>How does a vessel owner make a change to the video monitoring system?</u> Any change to the video monitoring system that would affect the system's functionality must be submitted to, and approved by, the <u>Regional Administrator</u> in writing before that change is made.</p>

<p>would affect the system's functionality must be submitted to, and approved by, the <u>Regional Administrator</u> in writing before that change is made.</p> <p>(§ 679.28(i)(1)(iii)(K))</p>	<p>would affect the system's functionality must be submitted to, and approved by, the <u>Regional Administrator</u> in writing before that change is made.</p> <p>(§ 679.28 (j)(4))</p>	<p>submitted to, and approved by, NMFS in writing before that change is made.</p> <p>(§ 679.28(k)(7))</p>	<p>(§ 679.28(e)(5))</p>
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On a practical level, requiring identical video monitoring requirements would not substantively affect vessels with currently approved electronic monitoring systems. The proposed regulations would make several minor changes to the existing electronic monitoring system requirements. First, NMFS would modify regulations at § 679.28(e)(1)(v) to require vessel operators to retain video data for 120 days after recording. Video data from the longline C/P subsector and C/Ps and motherships in the BSAI pollock fisheries currently must be retained for 120 days after recording as shown in the first row of Table 1. Video data used for bin monitoring under Amendment 80 to the BSAI FMP or rockfish in the Central Gulf of Alaska must be retained for 120 days after the beginning of a trip. This proposed action would modify regulations to use the less restrictive retention requirement of 120 days after recording, which would slightly reduce the burden for vessels required to provide bin monitoring under Amendment 80 to the BSAI FMP or rockfish in the Central Gulf of Alaska.

Second, NMFS proposes to modify the equipment requirements at § 679.28(e)(1)(iv) to revise and consolidate camera specification requirements as shown in second row of Table 1. Camera specifications for bin monitoring under Amendment 80 to the BSAI FMP and rockfish in the Central Gulf of Alaska differ slightly from the specifications for the longline C/P subsector and C/Ps and motherships in the BSAI pollock fisheries. Currently, camera specifications for bin monitoring under Amendment 80 to the BSAI FMP and rockfish in the Central Gulf of Alaska require a lux capacity (amount of available light needed for cameras to record images) for the cameras, while the specifications for the longline C/P subsector and C/Ps and motherships in the BSAI pollock fisheries require auto-iris capabilities that provide the ability to revert to black and white when light levels become too low for color recognition. All cameras currently in use under regulations for Amendment 80 to the BSAI FMP, rockfish in the Central Gulf of Alaska, the longline C/P subsector, and C/Ps and motherships in the BSAI pollock fisheries meet the standards proposed by this action. This proposed change, as shown in second row of the above table, therefore would not affect current or anticipated use of cameras.

Third, NMFS would modify regulations at § 679.28(e)(1)(iv) to require color cameras with 470-lines of resolution, which is also included in the second row of Table 1. Current video bin monitoring regulations for vessels under Amendment 80 to the BSAI FMP and rockfish in the Central Gulf of Alaska require a color camera with 420-line resolution, but the other video monitoring system regulations for the longline C/P subsector and C/Ps and motherships in the BSAI pollock fisheries require vessel operators to provide a color camera with 470-line resolution. NMFS expects this

proposed change would not affect existing vessel operations, including vessels regulated under Amendment 80 to the BSAI FMP and rockfish in the Central Gulf of Alaska, because all currently approved color cameras provide at least 470 lines of resolution.

Fourth, NMFS would modify regulations at § 679.28(e)(1)(iii) to require that the video system must output a video file that is open source (free and universally accessible software) or that can be converted to an open source format using commercially available or vessel-provided software. Current regulations for all video monitoring systems require that the system use commercially available software to view, record, playback and download video. The intent of current regulations was to allow NMFS employees and authorized agents to review the video imagery that is output by the system; however, NMFS does not need the entire software package that records video and allows it to be reviewed. Some security camera systems use software that is not commercially available outside of the system itself, but the systems are able to output an open source video file. Since the output format is the portion of the video NMFS needs for reviewing video, this action would revise regulations to allow open source video files. This proposed change would improve the ability for NMFS to review video data. This proposed change and the current regulations are shown in the third row of Table 1.

Finally, NMFS would modify and consolidate video approval regulations at § 679.28(e)(5). Vessels subject to the bin monitoring regulations for Amendment 80 to the BSAI FMP and rockfish in the Central Gulf of Alaska and C/Ps and motherships in the BSAI pollock fisheries that want to make any change to their video monitoring systems must obtain approval from the Regional Administrator, but vessels under the longline C/P subsector must obtain approval from NMFS. However, despite the

regulatory difference requiring approval either by the “Regional Administrator” or “NMFS” depending on the program, the approval process for all three programs is administered identically; therefore, this proposed action would consolidate these regulations to require approval by the Regional Administrator. This administrative change would not substantively affect operations or regulatory compliance for any vessel and is shown in the fourth and final row of Table 1.

NMFS notes that it would implement these proposed changes by consolidating the technical, annual inspection and approval, and data retention requirements for all video monitoring in regulations at § 679.28(e). Existing regulations at § 679.28(e) contain outdated and unused regulations concerning bin volumetrics. NMFS would modify § 679.28(e) to remove existing bin volumetrics regulations as discussed below in the section “Other Minor Changes made by this Rule.”

The video monitoring requirements specific to bin monitoring for Amendment 80 to the BSAI FMP and rockfish in the Central Gulf of Alaska would remain at § 679.28(i)(1)(iii). However, technical and data retention requirements at § 679.28(i)(1)(iii) would be removed and replaced with a reference to requirements in revised regulations at § 679.28(e). The video monitoring requirements specific to C/Ps and motherships in the BSAI pollock fisheries would remain in § 679.28(j). Video monitoring requirements specific to the longline C/P subsector would remain in § 679.28(k). However, the technical, annual inspection and approval, and data retention requirements would be removed and replaced with a reference to requirements in revised regulations at § 679.28(e).

However, there are costs to the industry associated with the revised video requirements. As described in Section C of the Analysis, extending video coverage to capture images of the area around the flow scale and incorporating these proposed technical provisions described in the table would not represent a substantial cost, increase in technological complexity, or result in significant additional crew training requirements for vessels that currently deploy video systems. For the limited number of vessels that are not using video systems currently, these costs could be substantial depending on the system deployed and vessel configuration, but would be necessary to ensure adequate monitoring of at-sea scales. Section C of the Analysis describes the potential costs to these vessels in greater detail.

Other Minor Proposed Changes

This proposed rule would make several minor revisions to 50 CFR part 679 related to the equipment and operational regulations.

First, NMFS would revise the applicability paragraph of § 679.28 to remove the reference to bin volumetric estimates and to add a reference to include video monitoring systems. Regulations related to bin volumetrics are no longer applicable because flow scales are now used instead of bin volumetric measurements to determine the size of individual hauls. As noted in the previous section of this preamble, NMFS proposes to remove these regulations so any reference to those regulations is unnecessary. This action would also remove all other references to bin volumetrics in § 679.28(e) and replace that paragraph with the technical requirements for video monitoring systems as discussed above. The reference to video monitoring systems is discussed in existing

regulations throughout § 679.28 and would be included in this proposed action to accurately describe the specific requirements covered in regulations at § 679.28.

Second, NMFS would revise current regulations at § 679.28(b)(3)(i)(B) to allow daily scale tests to be performed with test material, such as sand bags, approved by a NMFS-authorized scale inspector or provided by the scale manufacturer. Existing regulations at § 679.28(b)(3)(i)(B) require that daily scale tests performed with material other than fish must use test material provided by the scale manufacturer. NMFS believes vessel operators must use an appropriate test material that will contribute to accurate scale testing. However, that material does not need to be furnished by the scale manufacturer.

Third, NMFS would revise regulations at §§ 679.100(a) and (b) to remove a requirement that longline C/P vessels authorized to participate in the directed fishery and opt in to that fishery must select a monitoring option at that time. Current regulations at § 679.100(a) require that a longline C/P authorized to participate in the directed fishery for Pacific cod in the BSAI must annually choose whether to opt in or out of that fishery. Vessels that opt in are required to select a monitoring option at that time and this ensures data from these vessels for catch accounting are administered correctly. NMFS has determined that the requirements to annually opt in or out of the BSAI Pacific cod longline C/P fishery and to select a specific monitoring option at that time are no longer necessary. Unless a longline C/P owner or operator notifies NMFS of a change to their selected monitoring option, NMFS will continue to use the same catch accounting method as the previous year. This proposed action would remove this annual monitoring selection requirement by revising §§ 679.100(a) and (b). This proposed

change would clarify the requirements applicable to vessel operators in the longline C/P fleet and would reduce the fleet's reporting burden to select the same monitoring option that it used the previous year.

Fourth, NMFS would revise regulations at § 679.28(d)(9)(i) to simplify the observer sampling station inspection request regulations by removing a requirement that the vessel owner submit specific information when arranging for an observer sampling station inspection. Current regulations at § 679.28(d)(9)(i) require that a vessel owner provide the same information for an observer sampling station inspection request as is required for at-sea scale inspections in regulations at § 679.28. This change would not affect NMFS' ability to obtain information collected during the observer sampling station inspection process and would prevent duplicative reporting requirements.

Fifth, NMFS would revise regulations at § 679.28(i)(3) to clarify a vessel owner must submit an Inspection Request for Bin Monitoring at least 10 working days in advance of the requested date of inspection. Current regulations at § 679.28(i)(3) state that the inspections will be scheduled no later than 10 working days after NMFS receives a complete application for an inspection. This change would not affect NMFS' ability to schedule inspections and would make the bin monitoring inspection request submission requirements match scale inspection request submission requirements.

Sixth, NMFS would revise regulations at § 679.28(i)(1)(ii) to remove unnecessary text describing the use of clear panels. Regulations at § 679.28(i)(1)(ii) require that vessels subject to bin monitoring requirements and that choose a "line of sight" option for monitoring bins must provide clear panels to allow the observation of activities in the fish holding bins. The existing regulatory requirement in § 679.28(i)(1)(ii) provides that

“[t]he observer must be able to view the activities of crew in the bin” NMFS believes that this requirement is sufficient to adequately specify the needed requirements for the line of sight option for bin monitoring. This proposed modification removes an unnecessary restriction requiring the use of clear panels and clarifies existing regulations.

Seventh, NMFS would revise regulations at §§ 679.28(b)(3), 679.28(b)(3)(ii)(B)(2), and 679.28(d)(1) to remove references to weighing “total catch.” . At the time the Program was implemented in 1998, C/Ps required to weigh catch at sea were required to weigh all catch. For vessels using trawl gear, this is appropriate because all species need to be accounted for as part of the catch accounting required for these vessels. Thus, the high capacity scales are frequently referred to as total catch weighing scales, or scales used to weigh total catch. However, longline C/Ps are now only required to weigh Pacific cod on a flow scale, and are not required to weigh the catch of other groundfish harvested incidental to Pacific cod. While the at-sea scales requirements for these longline C/Ps are nearly identical to the requirements for trawl vessels, the term “total catch” is inaccurate when applied to longline C/P scale requirements, and would be removed.

Eighth, NMFS would revise regulations throughout §§ 679.28 and 679.100 to remove the term “electronic” and replace it with the term “video” when specifically referring to video monitoring regulations. The term “electronic monitoring” can refer to a wide range of electronic monitoring requirements such as those applicable to vessel monitoring systems, ELBs, at-sea scales, and video. NMFS believes that replacing the term “electronic” with “video” when referring to video monitoring is more accurate and less confusing to the regulated vessels.

Lastly, NMFS would remove regulations at § 679.100(d) that applied only during 2013 and that allowed the owner of a longline C/P to change selected monitoring options mid-year. This provision is no longer applicable and the correction would remove outdated regulatory text.

Classification

Pursuant to section 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Fishery Management Plan for Groundfish of the Gulf of Alaska, the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for certification is presented below. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

Description and Estimate of the Number of Small Entities to which the Rule Applies

This action would directly regulate firms with C/Ps that are required to use scales to account for catch at sea under various management programs. These programs include: trawl C/Ps permitted to fish for pollock in the BSAI under the AFA; motherships permitted to receive pollock in the BSAI under the AFA; trawl C/Ps permitted to fish for

groundfish under Amendment 80 to the BSAI FMP or rockfish in the Central Gulf of Alaska (GOA); longline C/Ps with a license limitation program license endorsed for C/P operations, Pacific cod, hook-and-line gear, and BS or AI areas; and C/Ps that harvest catch in the BSAI under the MS-CDQ program. These vessels and programs are described in more detail in the Analysis prepared for this proposed action (see ADDRESSES).

In each of these fleets, there are vessels authorized to participate in the fishery that do not do so. Depending on the fishery, this occurs because a company owns multiple vessels, but is able to harvest its entire quota without using all of the available boats; a company decides to use one of its vessels for those fisheries where weighing at sea is not required; or a vessel is not able to participate in the fishery because it is unusable or contractually prohibited from fishing. In the BSAI Pacific cod longline C/P fishery, vessels may choose to weigh all Pacific cod catch or provide additional observers in lieu of weighing all Pacific cod. Some vessels participating in this fishery have chosen to not install at-sea scales.

For the purposes of this analysis, NMFS has identified two classes of vessels that it estimates will be directly regulated by this action, if approved: 1) vessels with flow scales that were inspected by NMFS employees in 2012 and/or 2013, and 2) three vessels under construction that NMFS expects to enter the longline C/P fleet in 2014 or 2015 and to use flow scales. NMFS estimates that there would be 68 unique vessels directly regulated by this proposed action.

The SBA has established size criteria for all major industry sectors in the United States, including fish harvesting and fish processing businesses. Effective July 14, 2014

(79 FR 33647), a business involved in finfish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual gross receipts not in excess of \$20.5 million for all its affiliated operations worldwide. A business involved in shellfish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual gross receipts not in excess of \$5.5 million for all its affiliated operations worldwide. A business that both harvests and processes fish (i.e., a catcher/processor) is a small business if it meets the criteria for the applicable fish harvesting operation (i.e., finfish or shellfish).

NMFS has examined these vessels and their corporate and cooperative affiliations and has determined these vessels are predominately fishing for finfish and that their size for the purposes of the RFA is governed by the \$20.5 million threshold. NMFS has also determined that all of these vessels have corporate and cooperative affiliations whose combined gross revenues exceed the \$20.5 million threshold. All of these firms are affiliated through cooperative arrangements, whether through the AFA C/P Pollock Conservation Cooperative, one of the two cooperatives formed under the terms of Amendment 80 to the BSAI FMP, or the privately organized Freezer Longline Conservation Cooperative. Thus, none of the firms directly regulated by this action are small entities for the purpose of the RFA.

Estimate of Economic Impact on Small Entities, by Entity Size and Industry

Since there are no directly regulated small entities under this action, within the definition of small entities used in the RFA, there are no economic impacts from this action on small entities.

Criteria Used to Evaluate Whether the Rule Would Impose Impacts on “a Substantial number” of Small Entities

This analysis uses the criteria described on page 28 in the NMFS guidelines for economic reviews of regulatory actions (see ADDRESSES):

The term “substantial number” has no specific statutory definition and the criterion does not lend itself to objective standards applicable across all regulatory actions. Rather, “substantial number” depends upon the context of the action, the problem to be addressed, and the structure of the regulated industry. The SBA casts “substantial” within the context of “more than just a few” or de minimis (“too few to care about”) criteria. In some cases, consideration of “substantial number” may go beyond merely counting the number of regulated small entities that are impacted significantly. For example, a fishery may have a large number of participants, but only a few of them may account for the majority of landings. In such cases, a substantial number of small entities may be adjudged to be significantly impacted, even though there may be a large number of insignificantly impacted small entities.

Generally, a rule is determined to affect a substantial number of entities if it impacts more than just a few small entities. In a borderline case, the rule’s effect on the structure of the regulated industry or the controversy of the rule might tip the balance in favor of determining

that a substantial number of entities would incur a significant adverse economic impact.

Because this rule will not impact any small entities, this criterion is inapplicable here.

Criteria Used to Evaluate Whether the Rule Would Impose “Significant Economic Impacts”

The two criteria recommended for use in determining significant economic impacts are disproportionality and profitability. Disproportionality relates to the potential for the regulations to place a substantial number of small entities at a significant competitive disadvantage to large entities. Profitability relates to the potential for the rule to significantly reduce profits for a substantial number of small entities (Guidelines for NMFS Economic Review of Regulatory Actions: pp. 26–27; see ADDRESSES).

Description of, and an Explanation of the Basis for, Assumptions Used

Vessel cooperative affiliations were determined by NMFS staff, knowledgeable about the vessels in this fleet, and the entities’ corporate and cooperative affiliations.

Collection-of-Information Requirements

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). These requirements have been submitted to OMB for approval. The collections are listed below by OMB control number.

OMB Control No. 0648-0213

Public reporting burden is estimated to average 31 minutes per active response and 5 minutes per inactive response for Mothership Daily Cumulative Production Logbook (DCPL); with this action the mothership DCPL is removed and is replaced by the mothership ELB. 30 minutes per active response and 5 minutes inactive response for C/P trawl gear DCPL. 41 minutes per active response and 5 minutes per inactive response for C/P longline and pot gear DCPL.

OMB Control No. 0648-0330

Public reporting burden is estimated to average 45 minutes for daily record of flow scale test; 1 minute for printed reports from the calibration log; 1 minute for printed reports from the fault log; 6 minutes for request for inspection with a diagram, At-sea Scale; 2 hours for request for inspection w/diagram, Observer Sampling Station; 2 hours for request for inspection with a diagram, Flow Scale Video Monitoring System; 2 hours for request for inspection with a diagram, Freezer Longline Video Monitoring System; 2 hours for request for inspection with a diagram, Chinook Salmon Bycatch Video Monitoring System; 2 hours for request for inspection with a diagram, Bin Video Monitoring System; and 30 minutes to notify NMFS of Pacific cod Monitoring Option.

OMB Control No. 0648-0515

Public reporting burden is estimated to average 15 minutes per active response and 5 minutes per inactive response for C/P ELB (both trawl gear and longline or pot gear); and 15 minutes per active response and 5 minutes per inactive response for Mothership ELB.

Estimated responses include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS at the ADDRESSES above, and e-mail to OIRA_Submission@omb.eop.gov, or fax to (202) 395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number. All currently approved NOAA collections of information may be viewed at:

http://www.cio.noaa.gov/services_programs/prasubs.html.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: July 28, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 et seq.; 1801 et seq.; 3631 et seq.; Pub. L. 108–447.

2. In § 679.5, add paragraph (f)(1)(ix) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

* * * * *

(f) * * *

(1) * * *

(ix) Catcher/processors and motherships required to weigh catch on

NMFS-approved scales. Catcher/processors and motherships required to weigh catch

on a NMFS approved scale must use a NMFS-approved ELB. The vessel operator must ensure that each scale is tested as specified in § 679.28(b)(3) and that the following information from all scale tests, including failed tests, is reported within 24 hours of the testing using the ELB:

- (A) The weight of test material from the observer platform scale;
- (B) The total weight of the test material as recorded by the scale being tested;
- (C) Percent error as determined by subtracting the known weight of the test material from the weight recorded on the scale being tested, dividing that amount by the known weight of the test material, and multiplying by 100.
- (D) The time, to the nearest minute A.l.t. when testing began.

* * * * *

3. In § 679.28,

- a. Remove paragraph (b)(3)(iii)(C);
- b. Revise paragraphs (a), (b)(3) introductory text, (b)(3)(i)(B), (b)(3)(ii)(B)(2), (b)(3)(iii)(B)(7), (b)(6), (d)(1), (d)(9)(i), (e), (i)(1)(ii) and (iii), (i)(3), (j), and (k); and
- c. Add paragraphs (b)(5)(iii), (b)(5)(iv), (b)(5)(v) and (b)(8) to read as follows:

§ 679.28 Equipment and operational requirements.

(a) Applicability. This section contains the operational requirements for scales, observer sampling stations, vessel monitoring system hardware, catch monitoring and control plans, catcher vessel electronic logbook software, and video monitoring systems. The operator or manager must retain a copy of all records described in this section (§ 679.28) as indicated at § 679.5(a)(5) and (6) and make available the records upon request of NMFS observers and authorized officers as indicated at § 679.5(a)(5).

(b) * * *

(3) At-sea scale tests. To verify that the scale meets the MPEs specified in this paragraph (b)(3), the vessel operator must test each scale or scale system used by the vessel to weigh catch at least one time during each calendar day. No more than 24 hours may elapse between tests when use of the scale is required. The vessel owner must ensure that these tests are performed in an accurate and timely manner.

(i) * * *

(B) Test procedure. The vessel operator must conduct a material test by weighing no less than 400 kg of test material, supplied by the scale manufacturer or approved by a NMFS-authorized scale inspector, on the scale under test. The test material may be run across the scale multiple times in order to total 400 kg; however, no single batch of test material may weigh less than 40 kg. The known weight of the test material must be determined at the time of each scale test by weighing it on a platform scale approved for use under paragraph (b)(7) of this section.

(ii) * * *

(B) * * *

(2) Scales used to weigh catch. Test weights equal to the largest amount of fish that will be weighed on the scale in one weighing.

(iii) * * *

(B) * * *

(7) Signature of vessel operator.

* * * * *

(5) * * *

(iii) Printed reports from the calibration log. The vessel operator must print the calibration log on request by NMFS employees or any individual authorized by NMFS authorized personnel, and the calibration log must be printed and retained by the vessel owner and operator before any information stored in the scale computer memory is replaced. The calibration log must detail either the prior 1,000 calibrations or all calibrations since the scale electronics were first put into service, whichever is less. The printout from the calibration log must show:

- (A) The vessel name and Federal fisheries or processor permit number;
- (B) The month, day, and year of the calibration;
- (C) The time of the calibration to the nearest minute in A.l.t.;
- (D) The weight used to calibrate the scale;
- (E) The magnitude of the calibration in comparison to the prior calibration.

(iv) Printed reports from the fault log. The vessel operator must print the fault log on request by NMFS employees or any individual authorized by NMFS, and the fault log must be printed and retained by the vessel owner and operator before any information stored in the scale computer memory is replaced. The fault log must detail either the prior 1,000 faults and startups, or all faults and startups since the scale electronics were first put into service, whichever is less. A fault, for the purposes of the fault log, is any condition other than underflow detected by the scale electronics that could affect the metrological accuracy of the scale. The printout from the fault log must show:

- (A) The vessel name and Federal fisheries or processor permit number;
- (B) The month, day, year, and time of each startup to the nearest minute in A.l.t.;

(C) The month, day, year, and time that each fault began to the nearest minute in A.l.t.;

(D) The month, day, year, and time that each fault was resolved to the nearest minute in A.l.t.

(v) Calibration and log requirements for 2015 only. The owner and operator of a vessel with a scale used by the vessel crew to weigh catch that was approved after March 1, 2014, and before December 31, 2014, under § 679.28(b)(2) are not required to comply with the calibration log requirements at § 679.28(b)(5)(iii) or the fault log requirements at § 679.28(b)(5)(iv) until that scale is reapproved by a NMFS-authorized scale inspector in 2015.

(6) Scale installation requirements. The scale display must be readable from the location where the observer collects unsorted catch, unless otherwise authorized by a NMFS-authorized scale inspector.

* * * * *

(8) Video monitoring for scales used by the vessel crew to weigh catch. The owner and operator of a vessel fishing for groundfish and required to weigh catch under the regulations in this section must provide and maintain a NMFS-approved video monitoring system as specified in paragraph (e) of this section. Additionally, the system must:

(i) Provide sufficient resolution and field of view to monitor: all areas where catch enters the scale, moves across the scale and leaves the scale; any access point to the scale that may be adjusted or modified by vessel crew while the vessel is at sea; and the scale display and the indicator for the scale operating in a fault state.

(ii) Record and retain video for all periods when catch that must be weighed is on board the vessel.

* * * * *

(d) * * *

(1) Accessibility. All the equipment required for an observer sampling station must be available to the observer at all times while a sampling station is required and the observer is aboard the vessel, except that the observer sampling scale may be used by vessel personnel to conduct material tests of the scale used to weigh catch under paragraph (b)(3) of this section, as long as the use of the observer's sampling scale by others does not interfere with the observer's sampling duties.

* * * * *

(9) * * *

(i) How does a vessel owner arrange for an observer sampling station inspection?

The vessel owner must submit an Inspection Request for Observer Sampling Station with all the information fields accurately filled in to NMFS by fax (206-526-4066) or e-mailing (station.inspections@noaa.gov) at least 10 working days in advance of the requested date of inspection. The request form is available on the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

* * * * *

(e) Video Monitoring System Requirements—(1) What requirements must a vessel owner or operator comply with for a video monitoring system? (i) The system must have sufficient data storage capacity to store all video data from an entire trip. Each frame of stored video data must record a time/date stamp in Alaska local time (A.l.t.).

(ii) The system must include at least one external USB (1.1 or 2.0) port or other removable storage device approved by NMFS.

(iii) The system must output video files to an open source format or the vessel owner must provide software capable of converting the output video file to an open source format or commercial software must be available for converting the output video file to an open source format.

(iv) Color cameras must have at a minimum 470 TV lines of resolution, auto-iris capabilities, and output color video to the recording device with the ability to revert to black and white video output when light levels become too low for color recognition.

(v) The vessel operator must maintain the video data and make it available on request by NMFS employees, or any individual authorized by NMFS. The data must be retained on board the vessel for no less than 120 days after the date the video is recorded, unless NMFS has notified the vessel operator that the video data may be retained for less than this 120-day period.

(vi) The system must record at a speed of no less than 5 unique frames per second at all times when the use of a video monitoring system is required.

(vii) NMFS employees, or any individual authorized by NMFS, must be able to view any video footage from any point in the trip using a 16-bit or better color monitor that can display all cameras simultaneously and must be assisted by crew knowledgeable in the operation of the system.

(viii) Unless exempted under paragraph (D) below, a 16-bit or better color monitor must be provided within the observer sampling station or at the location where the observer sorts and weighs samples. The monitor:

- (A) Must have the capacity to display all cameras simultaneously;
- (B) Must be operating when the use of a video monitoring system is required;
- (C) Must be securely mounted at or near eye level;
- (D) Is not applicable to longline C/Ps subject to § 679.100(b)(2).

(2) How does a vessel owner or operator arrange for NMFS to conduct a video monitoring system inspection? The vessel owner or operator must submit an Inspection Request for a Video Monitoring System to NMFS with all information fields accurately filled in at least 10 working days in advance of the requested date of inspection. The request form is available on the NMFS Alaska Region Web site (<http://alaskafisheries.noaa.gov>).

(3) What additional information is required for a video monitoring system inspection? (i) A diagram drawn to scale showing all sorting locations, the location of the motion-compensated scale, the location of each camera and its coverage area, and the location of any additional video equipment must be submitted with the Inspection Request for a Video Monitoring System form. Diagrams for C/Ps and motherships in the BSAI pollock fishery, including pollock CDQ, must include the location of the salmon storage container.

(ii) Any additional information requested by the Regional Administrator.

(4) Where will NMFS conduct video monitoring and bin monitoring system inspections? Inspections will be conducted on vessels tied to docks at Dutch Harbor, Alaska; Kodiak, Alaska; and in the Puget Sound area of Washington State.

(5) A video monitoring system is approved for use when NMFS employees, or any individual authorized by NMFS, completes and signs a Video Monitoring Inspection Report verifying that the video system meets all applicable requirements of this section.

(6) A vessel owner or operator must maintain a current NMFS-issued Video Monitoring System Inspection Report on board the vessel at all times the vessel is required to provide an approved video monitoring system. The video monitoring system inspection report must be made available to the observer, NMFS personnel, or to an authorized officer upon request.

(7) How does a vessel owner make a change to the video monitoring system?

Any change to the video monitoring system that would affect the system's functionality must be submitted by a vessel owner to, and approved by, the Regional Administrator in writing before that change is made.

* * * * *

(i) * * *

(1) * * *

(ii) Option 2—Line of sight option. From the observer sampling station, the location where the observer sorts and weighs samples, and the location from which the observer collects unsorted catch, an observer of average height (between 64 and 74 inches (140 and 160 cm)) must be able to see all areas of the bin or tank where crew could be located preceding the point where the observer samples catch. The observer must be able to view the activities of crew in the bin from these locations.

(iii) Option 3—Video Monitoring system option. A vessel owner and operator must provide and maintain a NMFS-approved video monitoring system as specified in

paragraph (e) of this section. Additionally, the vessel owner and operator must ensure that:

(A) All periods when fish are inside the bin are recorded and stored;

(B) The system provides sufficient resolution and field of view to see and read a text sample written in 130 point type (corresponding to line two of a standard Snellen eye chart) from any location within the tank where crew could be located.

* * * * *

(3) How does a vessel owner arrange for a bin monitoring option inspection?

The owner must submit an Inspection Request for Bin Monitoring to NMFS with all the information fields filled in at least 10 working days in advance of the requested date of inspection. The request form is available on the NMFS Alaska Region Web site

(<http://alaskafisheries.noaa.gov>).

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(j) Video monitoring on catcher/processors and motherships in the BS pollock fishery, including pollock CDQ. The owner and operator of a C/P or a mothership must provide and maintain a video monitoring system approved under paragraph (e) of this section. These video monitoring system requirements must be met when the C/P is directed fishing for pollock in the BS, including pollock CDQ, and when the mothership is taking deliveries from catcher vessels directed fishing for pollock in the BS, including pollock CDQ. Additionally, the system must—

(1) Record and retain video for all periods when fish are flowing past the sorting area or salmon are in the storage container.

(2) The system must provide sufficient resolution and field of view to observe all areas where salmon are sorted from the catch, all crew actions in these areas, and discern individual fish in the salmon storage container.

(k) Video monitoring in the longline catcher/processor subsector. The owner and operator of a catcher/processor subject to § 679.100(b)(2) must provide and maintain a video monitoring system approved under paragraph (e) of this section. These video monitoring system requirements must be met when the vessel is operating in either the BSAI or GOA groundfish fisheries when directed fishing for Pacific cod is open in the BSAI, or while the vessel is groundfish CDQ fishing. Additionally, the system must:

(1) Record and retain video for all periods when Pacific cod are being sorted and weighed.

(2) Provide sufficient resolution and field of view to monitor all areas where Pacific cod are sorted from the catch, all fish passing over the motion-compensated scale, and all crew actions in these areas.

4. In § 679.100,

a. Remove paragraph (d); and

b. Revise paragraph (b) introductory text and paragraph (b)(2)(i)(D) to read as follows:

§ 679.100 Applicability.

* * * * *

(b) Monitoring option selection. The owner of a vessel subject to this subpart that does not opt out under paragraph (a) of this section must submit a completed notification form for one of two monitoring options to NMFS. The notification form is

available on the NMFS Alaska Region Web site (<http://alaskafisheries.noaa.gov/>). The vessel owner must comply with the selected monitoring option at all times when the vessel is operating in either the BSAI or GOA groundfish fisheries when directed fishing for Pacific cod is open in the BSAI, or while the vessel is groundfish CDQ fishing. If NMFS does not receive a notification to opt out or a notification for one of the two monitoring options, NMFS will assign that vessel to the increased observer coverage option under paragraph (b)(1) of this section until the notification form has been received by NMFS.

* * * * *

(2) * * *

(i) * * *

(D) The vessel is in compliance with the video monitoring requirements described at § 679.28(k).

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